



07 JUN 2007

CANTOR COLBURN, LLP  
55 GRIFFIN ROAD SOUTH  
BLOOMFIELD CT 06002

In re Application of	:	DECISION ON
SANG-WOON KWAK	:	
Application No.: 10/529,801	:	
PCT No.: PCT/KR2003/002031	:	PETITION UNDER
Int. Filing Date: 2 October 2003	:	
Priority Date: 2 October 2002	:	37 CFR 1.181
Attorney's Docket No.: YEI-0002	:	
For: Non-Shrink High Viscosity Chemical Grout	:	

This Decision is in response to applicants' "PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.R.F. §1.181(a)" filed on 07 December 2005 that the above-identified application was improperly held abandoned because on 30 March 2005 applicant had authorized to charge \$525.00 to Deposit Account 06-0113.

### **BACKGROUND**

On 2 October 2003, this international application was filed, claiming an earliest priority date of 2 October 2002.

On 30 March 2005, applicant filed a Transmittal letter for entry into the national stage in the United States, which was not accompanied by the requisite basic national fee as required by 35 U.S.C. 371 (c)(1). In addition no executed oath or declaration as required by 35 U.S.C. 371(c)(4) was submitted on such date. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 02 April 2005.

On 18 November 2005, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909), which indicated that applicant had failed to provide the full U.S. Basic National Fee by 30 months.

In response to the "NOTIFICATION OF ABANDONMENT" mailed on 18 November 2005, petitioner has submitted the instant petition requesting withdrawal of the Notice of Abandonment. In support of the petition, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 30 March 2005.

### DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard list the items submitted on 30 March 2005 and it indicates, *inter alia*, that a transmittal letter to charge \$525.00 and to charge those fees for the filing fees were received on such date. Petitioner states that the papers accompanying the present petition are a copy of the papers submitted on 30 March 2005.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicants' postcard receipt serves as *prima facie* evidence of receipt of the listed item on 30 March 2005 by the USPTO, i.e., the authorization to charge the filing fee of \$525.00 was received on such date, and this fee was charged to petitioner's Deposit Account on December 07, 2005.

Accordingly, petitioner's response- the payment of the basic national fee on March 30, 2005 is considered timely. Accordingly, the instant application has been improperly abandoned.

### DECISION

The petition under 37 CFR 1.181 is GRANTED.

Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is GRANTED. The NOTIFICATION OF ABANDONMENT, mailed 18 November 2005 has been VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision.



Rafael Bacares

PCT Legal Examiner

PCT Legal Office

Telephone: (571) 272-3276

Facsimile: (571) 273-0459